

M R. MAGAN (CORRESPONDENCE).

RETURN to an Order of the Honourable The House of Commons,
dated 1 August 1891;—for,

RETURN "of the CORRESPONDENCE between Mr. L. P. Hayden and the Irish Land Commission, between Mr. Hayden and the Attorney General for Ireland, and between Mr. Percy Magan, J.P., and the Attorney General for Ireland and the Irish Land Commission, in reference to charges brought against Mr. Magan, of having fraudulently obtained Money under the ARREARS ACT; and the CORRESPONDENCE between Mr. Magan and the Lord Chancellor, in the same Matter."

(Mr. Hayden.)

Ordered, by The House of Commons, to be Printed,
15 February 1892.

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L—CORRESPONDENCE between Mr. L. P. Hayden and the Irish Land Commission, and between the Irish Land Commission and Mr. Percy Magan.

Sir,

House of Commons, 21 May 1890.

I HAVE to draw the attention of the Irish Land Commissioners to the following facts, which I submit constitute an offence under the Arrears Act of 1882.

As you will find by the records of the Land Commission a joint application was made under that Act by Mr. Percy Magan, J.P. (then described as of Kildough Park, Moate, county Westmeath), and a number of his tenants in the Unions of Roscommon and Athlone.

To the case of two of these tenants, Bernard Clogher and William Clogher, of Corron, I would direct special attention.

I will take first the case of Bernard Clogher.

As you will find by the records, he is represented in the joint application as holding 20A. 0R. 10P. of land, valued at 9L. 10S., the alleged rent of the holding being stated at 15L. per annum. Two years' rent (30L.) is alleged to be due to the 1st November 1880.

On account of this application Mr. Magan received from the Land Commission the sum of 15L., the amount alleged to be due for one year.

As you will have seen, the affidavit of the landlord, Mr. Percy Magan, in which these statements are sworn to, was made on the 28th November 1882.

I may here mention that it is stated all the figures were prepared by the landlord, and the applications, signed by the tenants (most of whom, including Bernard Clogher, are illiterate) at his request; and I may also add that Bernard Clogher never received any benefit on account of the wiping out of alleged arrears by reason of the amount paid to the landlord.

I enclose you copy of receipt (A.), dated the 30th April 1881 (the original of which I forwarded to the Attorney General, Mr. Madolen), from which you will see that on that day the tenant had cleared up the rent to the previous 1st November 1880.

This I submit shows that the allegation that any rent whatever was due to the 1st November 1880, on the day the affidavit was sworn, so as to bring the case under the Arrears Act, was not true.

In addition to this false representation I would also draw your attention to the alleged rent.

In the affidavit the rent is stated to be 15L., and the amount alleged to be due 30L., and it was on this basis that the sum of 15L. was paid. I understand that these figures were based on a penal rent reserved in the lease.

As you will see by the enclosed receipt, the actual rent of the holding was not 15L. but 8L. 15S., whilst it will also be seen that even of this nothing was due.

I also enclose copy receipt (B.) by which you will see that on the 4th May 1882, six months prior to the making of the affidavit, Bernard Clogher made another payment, somewhat short of a half-year's rent.

I submit that the above facts show that the money paid to Mr. Magan in this case was obtained by false representation.

It may be right to mention that when I drew his attention recently to the matter the contention of the Attorney General was that the Bernard Clogher whose receipt I enclosed was not the same Bernard Clogher on account of whom Mr. Magan obtained the money from the Land Commission. Inquiry will show you that this contention is not correct.

I now come to the case of William Clogher.

He is alleged in Mr. Magan's affidavit of the 28th November 1882 to owe two years' rent (62L.) to the 1st November 1880, at the rate of 31L. per annum. The extent of the holding is stated to be 40A. 2R., and the valuation 26L. In this case the valuation is wrongly stated.

William Clogher states that he paid his rent on the same date (30th April 1881, and to the same gale-day, 1st November 1880) as his brother Bernard,

and there is evidence to prove this, but alleges that the receipt was destroyed by the landlord.

If this statement be correct, nothing would be due by the tenant to 1st November 1880, on the date on which the landlord swore he owed two years' rent.

In disproof of the landlord's statement I enclose copies of two receipts.

By the first of these (C.) you will see that the actual yearly rent paid by William Clogher was 15*l.* 10*s.* 6*d.*, and that a half-year's rent at that rate was paid up to the 31st October 1877.

The second receipt (D.) shows that on the 1st May 1880 William Clogher paid all rent due up to that day, viz., 1st May 1880.

I submit that in this case also—

(1.) The landlord was not entitled to a penal rent under the Arrears Act.

(2.) That no rent to the 1st November 1880 was due on the day the affidavit was sworn.

(3.) That even if the receipt alleged to have been destroyed never had any existence the documents I enclose show that only one half-year's rent, not two years, could have been due on the date mentioned.

These facts I submit prove a false representation to have been made, by virtue of which Mr. Magan obtained money under the Arrears Act to which he was not entitled, and I would now respectfully call on the Land Commissioners in the public interest to take steps to recover the amount so obtained by false representations and such other action as they may deem necessary under Section 7 of the Arrears Act.

I have, &c.

(signed) L. P. Heyden.

The Secretary, Irish Land Commission.

Should you wish to send any communication to me, my address for the next week will be "Messenger" Office, Roscommon; after Monday week, House of Commons.

Enclosures.

(A.)

RECEIVER from Bernard Clogher the sum of four pounds seven shillings and sixpence sterling, being half-year's rent due to Magan's estate out of his holding at Cartron, up to and ending on the 1st day of November 1880 (eighty).

	£. s. d.		
Poor rate	-	-	6 -
Income tax	-	-	-
Allowance (temporary)	-	-	1 6
Cash	-	-	4 -
Total	-	-	£. 4 7 6

Dated the 30th day of April 1881.

(stamped) William Kelly & Son,
(T.C.R.)

(B.)

RECEIVED from Barney Clogher (as below) the sum of five pounds six shillings and sixpence, on account of rent due me out of Carton.

	£. s. d.
Labour - - - - -	1 16 6
Cash - - - - -	3 10 -
Total - - -	<u>£. 5 6 6</u>

Dated 4th May 1882.

(signed) *Percy Magan.*

(C.)

RECEIVED from William Clogher the sum of seven pounds fifteen shillings and threepence for half-year's rent due to me out of Carton, ending the 31st day of October 1877 (seven).

	£. s. d.
Poor rate of - - - - -	- - 13 -
Income tax at - - - - -	- - -
Cash - - - - -	7 2 3
Total - - -	<u>£. 7 15 3</u>

Dated 8th May 1878 (eight).

(signed) *Percy Magan.*

(D.)

RECEIVED from William Clogher the sum of thirty-three pounds, for all rent due to me out of Carton (as settled by Mr. Dudley Mulrenin, having forgiven him half-a-year's rent of this), ending the 1st day of May 1880 (eighty).

Poor rate of - - - - -	- - - - -	Allowed all rates in settlement, and all work.
Income tax at - - - - -	- - - - -	

Dated 1st May 1880 (eighty).

(signed) *Percy Magan.*

The Irish Land Commission,

Sir, 24, Upper Merrion street, Dublin, 29 May 1890.

I SEE to acknowledge the receipt of your letter of the 21st instant, with reference to the application of Mr. Percy Magan, J.P., landlord, and Messrs. Bernard and William Clogher, tenants, under the Arrears of Rent Act, 1882, and to state that same will be submitted to the Commissioners for their consideration.

L. P. Hayden, Esq., M.P.

Yours, &c.
(signed) *John H. Franks.*

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 30 May 1890.

I AM directed by the Irish Land Commissioners to transmit to you the enclosed copy of a letter received from Mr. L. P. Hayden, M.P., dated the 21st instant, and of the receipts attached thereto, and to inform you that they have desired me to request that you will be so good as to state in writing, for their information, such explanation as you may desire to make in reply to the charges contained in Mr. Hayden's letter.

Yours, &c.

Percy Magan, Esq., J.P.

(signed) John H. Franks.

Dear Sir,

Corrall, Roscommon, 2 June 1890.

Yours of 30th May to hand on my return home.

I hope to send full reply to it soon, but it will take some little time for my solicitor to search his office for ejectment and civil bill decrees, &c., obtained against the two Cloghers, and also to search for other papers in re William and Barney Clogher, and Arrears Act affairs.

Yours, &c.

To Secretary of the Land Commission.

(signed) Percy Magan.

(A. 11,757—90.)

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 5 June 1890.

I AM directed by the Irish Land Commissioners to inform you that, by their direction, a copy of your letter of the 21st ultimo has been sent to Mr. Magan for his explanation of the charges contained therein.

A letter has been received from Mr. Magan promising to submit a full reply.

L. P. Hayden, Esq., M.P.

Yours, &c.
(signed) John H. Franks.

(A. No. 11,757.)

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 3 July 1890.

I AM directed by the Irish Land Commissioners to state that they are extremely surprised you have not yet afforded them the explanation promised in your letter of the 2nd ultimo.

Percy Magan, Esq., J.P.

Yours, &c.
(signed) John H. Franks.

Dear Sir,

Corrall, Roscommon, 5 July 1890.

In reply to yours of the 3rd instant (A. 11757), I have to say cause of delay in two Cloghers' cases under Arrears Act is that the solicitor, Jno. C. Davies, Esq., who did law business for me against two Cloghers, has been dead for several years. He held all my quarter sessions law papers prior to 1883, and amongst them ejectments and civil bill decrees against these two Cloghers. His widow, Mrs. Davies of "Bellsgrave," near Athleague, county Roscommon, is paralyzed, and unable to do any business, but her daughter has been making searches among her father's papers for these decrees for me, and has not yet completed her search. She says a great quantity of her father's papers were burned after his death.

As

As I rely much on these decrees in this case, and hope yet to get them from his unexamined papers, I hope you will excuse the delay.
If I had them I am ready to go on in every other way.

I must attend the assizes all next week on Grand Jury and other juries (three murder cases), and will write to you after assizes certain.

Yours, &c.
(signed) *Percy Magan.*

To Secretary, Land Commission.

(A. No. 14,084.)

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 9 July 1890.

I AM directed by the Irish Land Commissioners to acknowledge the receipt of your communication, dated the 5th instant, and to state that they consider it desirable that such a serious charge should be answered without delay, and they direct me to suggest that there can be no difficulty in obtaining copies of the decrees you require from the proper officer of the county court in which the decrees were made.

Percy Magan, Esq., J.P.

Yours, &c.
(signed) *John H. Franks.*

Dear Sir,

Correal, Roscommon, 13 July 1890.

I SHALL be very glad if your Commissioners will, if possible, name any day that may be suitable to them on which I may be allowed to appear before them in Dublin, to give the explanation they have asked me for in your letter of the 30th May last, in re the charges made by Mr. Hayden, M.P., against me, in regard of Arrears Act, 1882, William Clogher's case and Barney Clogher's case.

I will bring up my rent-books, accounts and papers, in these cases, for their inspection.

Please arrange, therefore, that I may have three or four days notice so as to avoid any further delays.

To Secretary of Land Commission.

Yours, &c.
(signed) *Percy Magan.*

(A. 14,550.)

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 17 July 1890.

I AM directed by the Irish Land Commissioners to acknowledge the receipt of your communication, dated the 13th instant, and to state that they request that you will submit a written statement with reference to the particular allegations made. When this has been received they will be in a position to consider whether it is necessary that you should appear before them.

Percy Magan, Esq., J.P.

Yours, &c.
(signed) *John H. Franks.*

STATEMENT of Percy Magan, Esq., in answer to charges made by Mr. Hayden, M.P., to Land Commission.

In re B. and W. Clogher.

The applications under Arrears Act were both joint ones.

Yearly rent in lease of B. Clogher was 15*l.*

Yearly rent in lease of Wm. Clogher was 31*l.*

A clause at end of both these leases provided for a reduction of these rents if the various covenants were kept.

As a matter of fact almost none of the covenants and conditions of these leases were ever kept.

Both these tenants were very constantly sued, in ejectment and by civil bill, as the rent was seldom forthcoming.

They let the fences go to the had, and let portions of their land go into thick furze. They refused to pay, and never have paid, the drainage tax of the Cold River, though bound to pay it by their lease, and Mr. Magan has been compelled to pay it since.

Memorandums from W. P. Kelly, Esq., Solicitor, Athlone, are sent herewith, showing some only of the numerous proceedings that were taken by him for Mr. Magan in these two cases.

In some of these cases decrees were obtained, but in most of them settlements were made by these tenants, paying in some portion only of the amounts due, and by Mr. Magan foregoing for the time the balances, and by his giving them work to help them.

Mr. Magan wrote to America to their brother, James Clogher, to give them some assistance. He did do something through his brother-in law, Dudley Mulrenin, of Castlerea.

Mr. Magan now produces some of James Clogher's and Mulrenin's letters, showing how liberally Mr. Magan dealt with these two men; but he, Mr. Magan, did not press them for the large balances still due, as they were too poor at the time to pay them.

To effect any sort of settlement Mr. Magan occasionally gave them receipts to fixed dates though actual payments to clear to dates were not made, and large arrears were due, these tenants promising that, if times improved with them, they might be able to pay up these arrears.

In 1882 and 1883 proceedings were again pending against these parties.

The Arrears Act was at this time passed.

The two Cloghers asked Mr. Magan to stay proceedings with a view to their getting the benefit of the Act.

Mr. Magan and the two Cloghers went through the accounts to ascertain, as far as they could, how much money had been really left unpaid since 1872, and the Cloghers then offered to put in a joint application under Arrears Act, and they both swore an affidavit to say the amounts were due to Mr. Magan.

Mr. Magan encloses a bill of Wm. Clogher's, he, Mr. M., had to take up in the Royal Bank.

It is not true, as stated by Mr. Hayden, that these men were illiterate. William Clogher was a very intelligent man, could read, write perfectly; I believe Barney Clogher was the same.

Mr. Magan did not even ask these Cloghers to go in for the Arrears Act or use any coercion whatever. This is evident from the letters of Mulrenin and the American brother.

The receipt marked A. of 30th April 1881, up to and ending 1st April 1880 (as quoted by Mr. Hayden), was written not by Mr. Magan, but by Mr. Kelly, the solicitor, and it was a complete mistake on his part; he had only just taken my law business, and did not know the state of Clogher's affairs. He should only have given a receipt on account at foot of the decree. When I found what he had done I wrote to him at once and pointed out this mistake, as he had no authority to give such.

He allowed Clogher a small tenant income tax! he had not paid at all.

The receipt B. is only a receipt on account.

The receipt C. to William Clogher is as far back as 1877, but though a receipt for rent, ending 31st October 1877, it was only at the abated rent, and only governs that half year.

The receipt D. clearly explains that he did not pay the whole of the rents and arrears then due, and states that half-a-year's rent (15*l.* 10*s.*) was foregone then; the letters of Mulrenin also show this, and it is evident that this sum, then foregone, formed part of the amount refunded by Arrears Act.

Mr. Hayden seeks to pin a charge of false representation against Mr. Magan and the two Cloghers, by the interpretation he tries to put on the technical wording of one or two receipts (which were given to effect any kind of settlement) without knowing the facts that lay behind him.

Mr. Magan denies that there was any fraudulent representation whatever, either on his part or on the part of these two Cloghers, and unless there is any

any technical law point that Mr. Magan is unaware of, he cannot see how such a charge should be made fairly against him or them.

Mr. Magan hands in the original two leases.

James Clogher's letters.

Mulrennan's letters.

Mr. Kelly, the solicitor's Memoranda of Proceedings taken, which, however, are not complete; he has not been able to find those of 1882.

And Wm. Clogher's bill of 8th May 1879 for 17*l.* 12*s.* 7*d.*

It is a complete and malicious falsehood on the part of Mr. Hayden in his statement to the Land Commissioners to say that any receipt was destroyed by the landlord.

20 July 1890.

MR. MAGAN encloses as follows for Land Commissioners' inspection, following papers to be returned to Mr. Magan.

Printed copy proof, for the special Parnell Commission in London, of Mr. Magan's evidence to be given, showing the effect of Mr. Hayden's interference with Mr. Magan and boycotting.

Copy of "Roscommon Messenger" of 8th February 1890.

Ditto	-	-	ditto	-	-	28th January 1888.
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Ditto	-	-	ditto	-	-	19th October 1889.
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Ditto	-	-	ditto	-	-	26th October 1889.
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Ditto	-	-	ditto	-	-	15th February 1890.
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Correal, Roscommon, July 1890.

In re Mr. Hayden's charges against Mr. Magan, in regard of the Arrears Act.

Mr. Magan in his own defence wishes to point out as follows:—

Mr. Hayden made no charges against Mr. Magan, till after his brother Mr. J. P. Hayden of Mullingar, was tried, convicted twice, and imprisoned for four months under the Crimes Act, in March 1888, for a speech made against Mr. Percy Magan at the Four Roads, in presence of about 4,000 people, on 1st January 1888.

It is a matter of notoriety in this parish that the Land League of this parish actively assisted Mr. Hayden to work up this charge against Mr. Magan, and an arrangement was attempted to suborn the two Cloghers to swear against Mr. Magan (as King's evidence in this case), and that if even they were tried also with Mr. Magan on this charge no respectable jury could be got to convict them, though Magan might be convicted. This information was ascertained by Sergeant Rafferty, R.I.C., then quartered at the Four Roads.

It is well known that money was given by the Land League to William Clogher weekly, in small sums, on this account, and it is stated that money was offered to Barney Clogher also.

Mr. Hayden's hope and intention was, if possible, to get Mr. Magan put on his trial on a criminal charge, and then his mouth would be shut and he could give no evidence, while the two Cloghers should turn King's evidence, and go into the witness-box and swear against Mr. Magan that they were coerced by him in swearing the affidavit, so as to enable him to get the money by fraudulent and false representations.

Since the trials under Crimes Act of J. P. Hayden, P. O'Brien, M.P., and Mr. Burns, in March 1888, for speeches against Mr. Magan, Mr. Luke Hayden, M.P., has never ceased writing articles against Mr. Magan in his paper, the "Roscommon Messenger," the result of which has been a great increase and intensity of the boycotting of 700 acres of Mr. Magan's land, &c., &c.

(signed) *Percy Magan.*

Mr. Percy Magan begs to inform the Land Commissioners that William Clogher died on Wednesday, 9th July 1890.

P. M.

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 30 July 1890.

I AM directed by the Irish Land Commissioners to inform you, with reference to your letter of the 21st May last, charging Mr. Percy Magan with having made a false representation, by means of which he obtained money under the Arrears of Rent (Ireland) Act, 1882, with reference to the cases of two tenants on his estate, named Bernard and William Clogher, that the Commissioners forwarded a copy of the letter referred to, to Mr. Percy Magan, and called upon that gentleman to state in writing for their information such explanation as he should desire to make in reference to the charges made by you.

On the 22nd instant the Commissioners received from Mr. Percy Magan a document purporting to set forth his answers to the charges so made.

Your letter of the 21st May last, and Mr. Magan's statement, with the documents referred to therein, have been under the consideration of the Commissioners, and they have decided, while not pronouncing any opinion upon the question at issue, to submit a copy of your letter with Mr. Magan's explanation to his Excellency the Lord Lieutenant for the purpose, if he sees fit to do so, of obtaining the opinion of the Law Officers of the Crown upon the matter.

L. P. Hayden, Esq., M.P.

I am, &c.
(signed) John H. Franks.

The Irish Land Commission,

Sir, 24, Upper Merrion-street, Dublin, 30 July 1890.

I AM directed by the Irish Land Commissioners to state that they have had before them the written statement received from you, purporting to be an answer to the charges made by Mr. Hayden, M.P., with reference to the applications under the Arrears Act, received from you and from your tenants, Bernard and William Clogher.

The Commissioners have desired me to return to you the original documents forwarded with your letter. This will be done in a few days when copies of them have been made.

They desire me to state that after full consideration of the explanation offered by you, they are of opinion that it is their duty to submit both copies of Mr. Hayden's letter of the 21st May, and of your explanation, with the documents accompanying it, to his Excellency the Lord Lieutenant, for the purpose of obtaining the opinion of the Law Officers of the Crown.

Percy Magan, Esq., J.P.

I am, &c.
(signed) John H. Franks.

Sir,

Correal, Roscommon, 31 July 1890.

I AM in receipt of your letter of the 30th instant, in re Mr. Hayden's charges. I would prefer that you would send all the documents I sent you in this case to the Law Officers of the Crown direct, including the newspapers and printed documents, as I am desirous that the Attorney General should see all.

Please get an acknowledgement for them from that office.

I have further evidence to show as well if it is required.

Yours, &c.

(signed) Percy Magan.

Any documents sent to me from your office should be sealed up and registered; it is very necessary.

To Secretary, Irish Land Commission, Dublin.

The Irish Land Commission.

Sir,
24, Upper Merrion-street, Dublin, 1 August 1890.
I am directed by the Irish Land Commissioners to forward the enclosed statement, which has been prepared by them, for the consideration of his Excellency the Lord Lieutenant, with reference to the charge made by Mr. L. P. Hayden against Mr. Percy Magan of having made a false representation, by which he obtained money under the Arrears of Rent Act, 1882.

Copies of a letter received from Mr. Hayden on the 22nd May last, specifying the grounds upon which he based the charge referred to, of Mr. Magan's written explanation, and of the documents therein referred to, received by the Commissioners on the 22nd ultim., are also sent.

You will recollect that the case referred to is that which has been the subject of several recent questions addressed by Mr. Hayden to the Chief Secretary in the House of Commons.

On the whole, the Commissioners consider that it would be advisable that the case should be referred to the Attorney General, having reference to the terms of the 7th section of the Statute 45 & 46 Vict. c. 47 (the Arrears of Rent Act).

The Under Secretary, Dublin Castle.

I am, &c.
(signed) *John H. Franks.*

ARREARS OF RENT (IRELAND) ACT, 1882.

Irish Land Commission.

Statement.—In re Percy Magan, Esq., I.P.

On the 22nd May 1890 the Land Commission received a letter from Mr. L. P. Hayden, M.P., charging Mr. Percy Magan with having made a false representation, by means of which he obtained money under the Arrears of Rent (Ireland) Act, 1882.

The Land Commission forwarded a copy of Mr. Hayden's letter to Mr. Magan, and on the 22nd July 1890 received from Mr. Magan his statement in answer to the charge so made.

The charge is made in reference to the cases of two tenants of Mr. Magan, William Clogher and Bernard Clogher.

On the 30th November 1882 a joint application under the Arrears Act by Mr. Magan and several of his tenants (including the two Cloghers), was lodged with the Land Commission, and the statements in the application were verified in the ordinary form by the affidavits of the tenants, dated the 22nd November 1882, and the affidavit of Mr. Magan, dated the 28th November 1882.

William Clogher's yearly rent in 1881 is therein stated to be 31*l.*, and the arrears due on the last gale-day of 1880, 62*l.*, and calculated on these figures, 31*l.* was paid to Mr. Magan by order of the Land Commission.

Bernard Clogher's yearly rent in 1881 is therein stated to be 15*l.*, and the arrears due on the last gale-day of 1880, 30*l.*, and calculated on these figures, 15*l.* was paid to Mr. Magan by order of the Land Commission.

William Clogher held his farm from Mr. Magan under a lease of the 25th March 1872, for a term of 31 years, reserving a yearly rent of 31*l.*, payable the 1st May and 1st November in each year; the lease contains covenants by the lessee against assigning, sub-letting, &c., to keep the demised premises and all fences, &c., in repair, and that in case any tax for drainage or otherwise

should be imposed by law on said holding, to pay additional rent equivalent to the amount the lessor would have been so obliged to pay; then follows a covenant by the lessor that in case the lessee should perform the above covenants and clauses the yearly rent should be abated to 15*l.* 10*s.* annually.

Bernard Clogher also held his farm from Mr. Magan under a lease of the 25th March 1872, for a term of 31 years, at a yearly rent of 15*l.*, payable 1st May and 1st November in each year; his lease contained covenants by the lessee similar to those contained in the lease to William Clogher, and a similar covenant by the lessor by which the rent was to be abated to 7*l.* 15*s.* annually.

The two substantial charges made against Mr. Magan in reference to these cases are—

1st. That the rents stated in the application to the Land Commission were not the real rents paid by William Clogher and Bernard Clogher, but rents of the nature of penal rents.

2nd. That the sum stated in the application as being the amounts due by each of these tenants for arrears to the last date of 1880 were not in reality due, nor were any arrears due to that date.

As to the first charge, Mr. Magan's explanation is that the rents at the higher scale were legally due to him, because the rents were in arrear, because they had let the fences go to the bad, and because they had refused to pay "the drainage tax of the Cold River."

As to the second charge, it will be necessary to consider the case of each tenant separately, and there are many statements made by Mr. Hayden and contradicted by Mr. Magan, into the truth of which the Land Commission have no means of inquiring.

In William Clogher's case the following appears plain: In January 1880 Mr. Magan was in communication with a Mr. Dudley Mulrenin with a view to getting a brother of William Clogher, named James Clogher, who was in America, to pay or settle William Clogher's arrears. On 10th January 1880 Mr. Magan sent to Mr. Dudley Mulrenin a memorandum (*see Copy*) stating that William Clogher's debts to the 1st November 1879 amounted to 25*l.* 17*s.* 10*d.*

Even if the subsequent rent was charged at the higher rate, and even if no subsequent payment was made to Mr. Magan, this would not make 61*l.* due for arrears to the 1st November 1880, as stated in the application to the Land Commission.

But after several letters between Mr. Mulrenin and Mr. Magan, a settlement of William Clogher's arrears was come to; a payment was made by Mr. Mulrenin to Mr. Magan, and on the 1st May 1880 passed a receipt (*See Copy D*) to William Clogher for 33*l.* for all rent due by him up to the 1st May 1880.

This would only leave half a year's rent due by William Clogher on the 1st November 1880, instead of two years as stated in the application to the Land Commission.

Mr. Magan's explanation as to this is as follows:—"The receipt D. clearly explains that he did not pay the whole of the rent and arrears then due, and states that half a year's rent (15*l.* 10*s.*) was foregone then: the letters of Mulrenin also show this, and it is evident that this sum then foregone formed part of the amount refunded by the Arrears Act."

It appears to the Land Commission that this explanation of Mr. Magan admits that in the application to the Land Commission he returned as arrears due to the 1st November 1880 what he had previously forgone the tenant on the settlement being come to and payment made on 1st May 1880.

In reference to Bernard Clogher's case the following appears clear: In his memorandum of the 10th January 1880, sent by Mr. Magan to Mr. Mulrenin, the amount of Bernard Clogher's debts to the 1st November 1879 is stated to be 9*l.* 4*s.* 4*d.*

With no subsequent payment and calculating the arrears at the higher scale of rent, they would not amount on the 1st November 1880 to 31*l.* as stated in the application to the Land Commission. But on 31st April 1881 Bernard Clogher paid to Mr. Magan's solicitors 4*l.* 7*s.* 6*d.*, for which they passed a receipt to him for a half-year's rent due the 1st November 1880. Mr. Magan states that his solicitors made a mistake in crediting this payment to the half-year mentioned in the receipt, but at all events it would be applicable to reducing the amount of arrears due the 1st November 1880.

There

There are many other matters in Mr. Hayden's letter and Mr. Magan's explanation into which the Land Commission do not consider it necessary to enter.

As to whether Mr. Magan was legally entitled to the rents in leases at the higher scale the Land Commission do not express any opinion, but it was certainly not dealing candidly with a Public Department either on the part of Mr. Magan or the two Cloghers in the joint application to the Land Commission to suppress all mention of the fact that the rents set forth were liable to be abated to practically one-half in amount on the observance of certain covenants in the leases.

As to the second charge, Mr. Magan appears undoubtedly to have set forth in the application to the Land Commission amounts of arrears as due considerably in excess of what would be due, starting with his own Memorandum of the 10th January 1890, and in the case of William Clogher to have claimed arrears, which on a settlement came to and payment made, he had previously forgiven.

If he set forth these amounts with any attempt to substantiate a false claim it would be a matter to consider whether he is guilty of a misdemeanour under Section 7 of the Arrears of Rent (Ireland) Act, 1882.

If the amounts set forth were not in reality due at the date of the application then the moneys paid to Mr. Magan by Order of the Land Commission being based on those amounts would be debts due to the Crown by Mr. Magan.

The case appears to the Commissioners to be one for the consideration of the Law Advisers of the Crown.

The following documents are sent with this Statement:—

- A.—Copy of Mr. Hayden's letter of 21st May 1890, and its enclosures.
- B.—Copies of statements made by Mr. Magan, and received on the 22nd July 1890.
- C.—Copies of leases and other documents referred to in Mr. Magan's Statement of 21st July.
- D.—The original papers mentioned in Mr. Magan's Memorandum, headed "20th July 1890."
- E.—Copy of joint application under Arrears Act by Landlord and Tenant (Form C.)—Percy Magan, Landlord; B. and W. Clogher, Tenants (with others).

Copies of Statement of B. and W. Clogher, with others, thereon.

By Order,
(signed) *J. H. Franks.*

24, Upper Merrion-street, 1 August 1890.

(A. 15,623.)

The Irish Land Commission, 24 Upper Merrion Street,
Sir,
Dublin, 1 August 1890.

I AM directed by the Irish Land Commissioners to acknowledge the receipt of your communication, dated the 31st ultimo, and to inform you that your request will be complied with.

Percy Magan, Esq., J.P.

Yours, &c.
(signed) *John H. Franks.*

(A. 15/623.)

The Irish Land Commission, 24, Upper Merrion Street,
Sir. Dublin, 5 August 1890.

WITH reference to your letter of the 31st ultimo, and their reply of the 1st instant, the Irish Land Commissioners desire me to inform you that they are of opinion that the original documents forwarded by you on the 22nd ultimo, should be returned to you, and I now enclose herewith the two original leases to Wm. and Bernard Clogher, Memoranda of Mr. Kelly, solicitor, original letters of Dudley Mulrenin and James Clogher, and original promissory note of Wm. Clogher.

You are requested to acknowledge the receipt of these documents.

The five newspapers and printed copy of "Proof" of evidence received from you have, with other documents, been forwarded to His Excellency the Lord Lieutenant.

Percy Magan, Esq., J.P.

I am, &c.
(signed) John H. Franks.

Dear Sir,

Correal, Roscommon, 6 August 1890.

I RECEIVED this day your registered envelope, dated 5th August, and the enclosures of original documents mentioned in said letter.

This envelope was sealed by you at one end, but it was opened at the other end in transit; you omitted to seal both ends. Thus again the Land League I assume will know its contents as they have hitherto known in like manner my private correspondence about boycotting and letters addressed to officials.

I have sent the envelope to Secretary G.P.O., Dublin, where you can see it.

To Secretary, Land Commission, Dublin.

Yours, &c.
(signed) Percy Magan.

(15,386.)

Chief Secretary's Office, Dublin Castle,
Sir, 8 October 1890.

WITH reference to your letter of the 1st August last, relative to the case of Mr. Percy Magan, of Correal, county Roscommon, I am directed by the Lords Justices to transmit to you herewith a cheque for 46 £, duly endorsed, which has been forwarded by that gentleman in satisfaction of the claim of your Department against him for the sum 31 £ and 15 £, illegally received by him under the Arrests of Rent (Ireland) Act, 1882.

You will be good enough to acknowledge the receipt of this letter.

The Secretary, Land Commission,
24, Upper Merrion Street.

I am, &c.
(signed) West Ridgeway.

The Irish Land Commission, 24, Upper Merrion Street,
Sir, Dublin, 10 October 1890.

I AM directed by the Irish Land Commissioners to acknowledge the receipt of your communication, dated the 8th instant, enclosing a cheque for 46 £, duly endorsed, from Mr. Percy Magan, of Correal, county Roscommon.

The Under Secretary, Dublin Castle.

I am, &c.
(signed) John H. Franks.

II.—CORRESPONDENCE between the Attorney General for Ireland (through the Chief Crown Solicitor) and Mr. Percy Magan.

Sir,

13 August 1890.

I HAVE received instructions to apply to you on behalf of the Crown for repayment of the respective sums of 31*l.* and 15*l.* paid to you under the Arrears of Rent (Ireland) Act, 1882, in respect of the holdings of William Clogher and Bernard Clogher under the circumstances already fully stated to you.

If these sums amounting to 46*l.* be not paid to me within one week from this date I shall take the necessary proceedings against you for recovery.

Percy Magan, Esq., J.P., Correal,
County Roscommon.

I am, &c.
(signed) P. Coll.

Sir,

29 September 1890.

On the 13th August last I applied to you for repayment of the sum of 46*l.*, paid to you under the Arrears of Rent (Ireland) Act, 1882, under circumstances of which you are aware.

I have now to inform you that I shall take immediate proceedings against you without further notice if the amount be not paid by the 6th proximo.

Percy Magan, Esq., J.P., Correal,
County Roscommon.

I am, &c.
(signed) P. Coll.

(In re "Percy Magan, J.P., and Arrears Act.")

Sir,

Correal, Roscommon, 4 October 1890.

In reply to yours of 13th August 1890, applying to me on "behalf" of the "Crown" for repayment of the respective sums of 31*l.* and 15*l.* paid to me "under 'Arrears Act,' 1882, in respect of the holdings of Wm. Clogher and Bernard Clogher,"—

I have consulted an eminent lawyer, Q.C., and laid the case fully before him, and he being of opinion that the law point is against me has advised the payment of 46*l.* to the "Crown."

Though yielding to this advice, I do so *under protest*, as I still believe, as I always did, that as the arrears of rent (notwithstanding receipts given to effect settlements) were really *unpaid*, and were *due to me*, I was fairly entitled to get them under the Arrears Act, and the tenants *sware they were due to me*. There were no *fraudulent or false pretences* used by either me or the two tenants. I enclose cheque for 46*l.* accordingly.

To P. Coll, Esq.

Yours &c.
(signed) Percy Magan.

Sir,

Correal, Roscommon, 5 October 1890.

In reply to yours of 13th August and 29th September inst., I have written to you and sent you the money, but as so many of my letters have been opened in local posts I cannot post it to you here, but will do so in Ballinasloe or Athlone to-morrow, the 6th inst., certain.

To P. Coll, Esq., Crown Solicitor's Office,
Dublin Castle.

Yours, &c.
(signed) Percy Magan.

Sir,

7 October 1890.

I HAVE received your letter of the 4th instant this day, enclosing cheque for 46 £. in repayment of the amount paid you under "The Arrears of Rent (Ireland) Act, 1882," in respect of the holdings of Wm. Clogher and Bernard Clogher.

P. Magan, Esq., J.P.,
Corveal, County Roscommon.

I am, &c.
(signed) P. Coll.

III.—CORRESPONDENCE between Mr. L. P. Hayden and the Attorney General for Ireland.

"Messenger" Office, Roscommon,
21 October 1890.

Dear Sir,
As Mr. Percy Magan would still appear to be retained as a magistrate, I must presume that the nature of the charge brought against him, that of having fraudulently obtained money under the Arrears Act by false representations, which he has failed to refute, and which you admit he would give no satisfactory explanation of, has not yet been brought under the notice of the Lord Chancellor.

Might I ask, under these circumstances, when and where the proceedings, which were promised before the rising of Parliament, will be instituted.

Right Hon. D. H. Madden, M.P.,
Attorney General.

Yours, &c.
(signed) L. P. Hayden.

Law Room, Dublin Castle,
23 October 1890.

I AM to acknowledge the receipt of your letter of the 21st instant, and in reply I have to say that the proceedings announced by me before the rising of Parliament were duly taken on behalf of the Crown.

I am informed that Mr. Magan after the institution of these proceedings paid the amount claimed, which was duly handed over to the Land Commission.

I have nothing to say to any question relating to Mr. Magan's position as a magistrate. This is a matter exclusively for the Lord Chancellor.

Yours, &c.
(signed) D. H. Madden.

"Messenger" Office, Roscommon,
31 October 1890.

I AM in receipt of your letter in reference to the case of Mr. Percy Magan, and beg to thank you for the information it contains. At the same time you will pardon me for saying that I do not consider it as dealing satisfactorily with the matter, and would be glad to obtain more definite information on the subject.

Might I ask what is the actual amount claimed from and paid back by Mr. Magan?

Were any inquiries instituted with a view to ascertaining whether a similar fraud had been committed in the other cases on Magan's estate as in those regarding which such strong evidence was produced?

Am I to understand that after the various efforts made by Mr. Magan to evade a direct answer to the charges made publicly against him, and the undoubted proof which now exists that the money was obtained by him by false misrepresentation

sentation no step will be taken to enforce the penalties which the Arrear Act authorises, and that a money payment is to be accepted to avoid a prosecution?

And, finally, am I to understand that when such facts as those which have been brought to light regarding Mr. Magan have come to the knowledge of the Irish Office, and have been admitted by the person charged, that it is not the duty of the Executive but of a private individual to bring the conduct of such person, when holding the Commission of the Peace, under the notice of the Lord Chancellor.

I am sure you will recognise that the gravity of the case justifies me in writing to you again at some length on the subject.

Right Hon. D. H. Madden, M.P.,
Attorney General.

Yours, &c.
(signed) *L. P. Hayden.*

Dear Sir,

4 November 1890.

In reply to your letter I have to say that the amount claimed by the Crown and paid by Mr. Magan was 46 £.

This was in respect of the holdings of William and Bernard Clogher.

I have not investigated the cases of any other tenants, nor have I any means of doing so.

My consideration of the evidence before me led to the conclusion that the penal rent nominally payable by the Cloggers was not recoverable by Mr. Magan at the time of his claim, and that his claim was unsustainable. I therefore directed proceedings to be taken under the Arrears Act for the amount.

But I am bound to add that the evidence before me did not lead to the conclusion that Mr. Magan had been guilty of conduct, such as you allege, which would render it proper for me to direct a prosecution.

The Lord Chancellor is aware of the case which has been brought under his notice.

L. P. Hayden, Esq.

Yours, &c.
(signed) *D. H. Madden.*

"Messenger" Office, Roscommon,

21 November 1890.

Dear Sir,
ABSENCE from home delayed the acknowledgment of the receipt of your letter.

I am loathe to trouble you again regarding the Magan affair pending the sitting of Parliament; but I would like to draw your attention to the fact that my charge of fraudulent misrepresentation was not based on the statement that Mr. Magan obtained a penal instead of the ordinary rent. That I look on not as the original offence, but as a gross aggravation of it.

My charge was that there was *no real whatever due to Mr. Magan when he wrote there was*; and I must say that to my mind, with great respect to your superior judgment, that constituted fraudulent misrepresentation.

Yours, &c.
Right Hon. The Attorney General, M.P. (signed) *L. P. Hayden.*

Should you be replying, my address will be Roscommon up to Monday; after that the House of Commons.

"Messenger" Office, Roscommon,

2 February 1892.

Dear Sir,
In the Parliamentary Papers received up to the present I do not find the Return promised in the case of Mr. Percy Magan, J.P.

Would you kindly let me know whether the papers have been or will soon be issued?

Yours, &c.
(signed) *L. P. Hayden.*

Right Hon. The Attorney General.

IV.—Correspondence between Mr. Percy Magan, J.P., and the
Lord Chancellor of Ireland.

My Lord,

Correal, Roscommon, 27 January 1890.

As you are at the head of the magistracy of Ireland, and as I hold the "Commission of the Peace" for the counties of Roscommon, Wexford, and Westmeath, I now call your attention to the articles contained in the "Roscommon Messenger" of October 1889, edited by Luke Hayden, M.P.

I deny that there is any truth in the statement therein, that I obtained money under the "Arrears Act" by "false representations."

I shall be glad if you will hold a sworn investigation forthwith as to whether the grounds on which 31*l.*, which was obtained on the joint "application" of myself and the tenant, Wm. Clogher, were obtained by "fraudulent representations" or intentions by us.

On the 29th October last (1889) I applied to the "Land Commissioners" to investigate these charges of Luke Hayden, M.P., in his newspaper, the "Roscommon Messenger."

I now enclose you a copy of their reply.

Yours, &c.
(signed) *Percy Magan.*

To the Right Hon.
The Lord Chancellor of Ireland.

My Lord,

Correal, Roscommon, 27 January 1890.

In explanation of the official letter sent you herewith, I now enclose a copy of the "Roscommon Messenger" of 28th January 1888, reporting the trial of Messrs. P. O'Brien, M.P., Thomas Byrne, John Hayden of the "Westmeath Examiner," held under "Crimes Act" on 25th January 1888, at which trial the above three prisoners were convicted, and convictions were upheld on "Appeal" by the County Court Judge in March 1888.

After these trials the boycotting of Mr. Magan, which had existed for long before, was greatly increased, as may be judged from the leading article in said paper, and the boycotting still partly exists.

Mr. Percy Magan herewith encloses a copy of the evidence he was to have given before "Parnell Commission" in London, but it was not called for as the three Judges said they already had sufficient evidence as to "boycotting."

Mr. Luke Hayden, M.P., owner of the "Roscommon Messenger," has shown his animus against Mr. Magan in every way he could since said "trials," at which his relative, Mr. John Hayden of Mullingar, was convicted.

It is very remarkable that, though Luke Hayden makes the charge in his newspapers of October 1889, of obtaining 31*l.* under the "Arrears Act" by "false representations," he makes no charge against William Clogher, the tenant who made a joint application with Mr. Magan for that sum, and "Clogher" swore in his affidavit that it was due to Mr. Magan.

The Land League wish if possible to get a prosecution brought against Mr. Magan in such a way that his mouth would be closed, and that he would not be allowed to give evidence. The Land League have actually arranged that Clogher is to give evidence against Mr. Magan, though if Mr. Magan has done wrong, so also must have "Clogher" done, who joined in the "application" and swore the money was due.

Mr. Magan tried to commence an "action" against Mr. Luke Hayden, but Mr. Magan is so completely beggared by the five years boycotting that he has no money to carry on such an action and has failed to obtain a loan to do so, particularly as it is stated that "Hayden" is no mark for costs or damages.

Mr.

Mr. Hayden has said that Mr. Magan is not fit to be a J.P. for Roscommon or any other county; this, because I refused at a public meeting when I was in the chair to allow a vote of censure to be put against the "High Sheriff" of the county.

Mr. Magan will call on Mr. Hayden now to make a distinct charge to the authorities against him as a magistrate. It is rumoured the Mr. Hayden will ask a "question" on this subject in the "House."

The Right Hon.
The Lord Chancellor of Ireland.

Yours, &c.
(signed) *Percy Magan.*

Lord Chancellor's Secretary's Office, Four Courts,
Sir, Dublin, 1 February 1890.

I AM directed by the Lord Chancellor to acknowledge the receipt of your letter of the 27th January, and accompanying documents. It is not the practice of his Lordship to institute such sworn inquiries as you suggest. The transaction to which you refer consists of a general charge contained in a newspaper in reference to a matter entirely outside the department of the Lord Chancellor. It would be inconvenient and contrary to all precedent for him to seek to investigate matters with the particulars of which he is wholly unacquainted, and which were within the jurisdiction and under the control of the Land Commission.

His Lordship assumes that in your communication to the Land Commission you referred to the circumstances of the advance under the Arrears Act, and to the charge made in the "Roscommon Messenger" in reference to it, and asked for a full inquiry into the subject, thus showing your desire to have the matter investigated.

The Land Commission in their reply of 31st October 1889 stated that they could not entertain general charges made in a newspaper, and that as they had received no letter impeaching the transaction they could not express any opinion on the subject.

The Lord Chancellor can only therefore say that your correspondence indicates a desire to court investigation and not to shrink from any inquiry that might be thought desirable, but for the reasons above given on the present state of facts he cannot himself go into the matter.

I return the documents.

Percy Magan, Esq., J.P.,
Correal, Roscommon.

I am, &c.
(signed) *W. M. Jellett,*
Private Secretary.

Lord Chancellor's Secretary's Office, Four Courts,
Sir, Dublin, 9 August 1891.

I AM directed by the Lord Chancellor to say that in consequence of the statement of the Attorney General in Parliament, his Lordship thinks it would be desirable that you should not sit on the Petty Sessions Bench pending the result of the proceedings which have been directed, and he is sure that you will at once comply with this intimation.

Percy Magan, Esq., J.P.,
Correal, Roscommon.

I am, &c.
(signed) *J. Nugent Lentaigue.*

My Lord,

Correal, Roscommon, 27 October 1890.

REFERING to your letter of 9th August 1890, saying "you think it desirable that I should not sit on Petty Session Bench pending result of proceedings which have been directed (in re Arrears Act), and you are sure 'that I will at once comply with this intimation,'" I beg to say I have not since sat at "Petty Sessions." I assisted Captain Preston, M.M., to sign publicans' certificates, once at Athlone, when case was urgent and time running out, as no other magistrate could be got at the time to do it.

No "proceedings" were taken against me, as I repaid the 4*6/-* to the Crown by the advice of F. T. Dames Longworth, Q.C., H.M.L., &c., before whom I laid the case for his opinion and advice, which was that he considered the law point was against me; though I might be fairly entitled to get these arrears, as we believed on other grounds, as already stated, to the Land Commissioners, the Attorney-General, &c. &c.

I enclose you a copy of my letter to the Attorney General for your information. Please return it to me; also receipt enclosed. I will now ask you to be kind enough to withdraw your letter to me of the 9th August. I am in a position to prove to you if necessary that there was no "fraudulent intent," either on my part or my tenants' part (as they swore the amount was due to me), as charged by Mr. Hayden, M.P. We believed at the time, and I believe so still, that we were fairly entitled to get these arrears for reasons already stated.

I shall be glad to hear from your Lordship as soon as convenient to you.

To the Right Hon.

The Lord Ashbourne,
Lord Chancellor of Ireland.

Yours, &c.

(signed) *Percy Magan.*

Sir,

Four Courts, Dublin, 4 November 1890.

I AM directed by the Lord Chancellor to acknowledge the receipt of your letter of the 27th ult., which will be considered in due course.

Percy Magan, Esq., J.P.,
&c. &c.Yours, &c.
(signed) *J. Nugent Lentaigne.*

Sir,

Four Courts, Dublin, 30 January 1891.

WITH reference to previous correspondence, the Lord Chancellor desires me to say that he sees no reason why he should not now assent to the request contained in your letter of the 27th October last.

Percy Magan, Esq., J.P.,
&c. &c.I am, &c.
(signed) *J. Nugent Lentaigne.*